

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

SPACE EXPLORATION TECHNOLOGIES CORP.,	)	
	)	
	)	
Plaintiff,	)	No. 14-354C
	)	(Judge Braden)
v.	)	
	)	
UNITED STATES,	)	
	)	
Defendant.	)	

**DEFENDANT'S MOTION FOR CLARIFICATION OF PRELIMINARY  
INJUNCTION ORDER, AND REQUEST FOR EXPEDITED CONSIDERATION**

Defendant, the United States, respectfully requests that the Court confirm that its April 30, 2014 preliminary injunction order does not apply to purchases from or payments to either United Launch Services, LLC (ULS) or United Launch Alliance, LLC (ULA). By its terms, the order appears to prohibit only “making any purchases from or payment of money to NPO Energomash or any entity, whether governmental, corporate or individual, that is subject to the control of Deputy Prime Minister Rogozin.” A broader interpretation prohibiting purchases from or payments to ULS or ULA itself would risk substantially affecting current contractual obligations between the Air Force and ULS and ULA.

The more reasonable interpretation, prohibiting only “purchases from or payment of money to NPO Energomash or any entity, whether governmental, corporate or individual, that is subject to the control of Deputy Prime Minister Rogozin,” would serve the Court’s purpose without endangering the contractual relationship between the Air Force and ULS and ULA. This interpretation would not affect the United States’ ability to provide the Court the opinions of the United States Department of the Treasury, the

United States Department of Commerce, and United States Department of State, whether purchases from or payment of money to NPO Energomash or any entity, whether governmental, corporate or individual, that is subject to the control of Deputy Prime Minister Rogozin will directly or indirectly contravene Executive Order 13,661.

For these reasons, the United States respectfully requests that the Court confirm that its April 30, 2014 preliminary injunction order does not apply to purchases from or payments to either ULS or ULA. This request should not be interpreted as a concession to any aspect of the preliminary injunction; indeed, the United States reserves its rights to further review of all aspects of the preliminary injunction. Because of the ongoing contractual relations between the Air Force and ULS and ULA, the United States respectfully requests expedited consideration of this motion.

Respectfully submitted,

STUART F. DELERY  
Assistant Attorney General

ROBERT E. KIRSCHMAN, JR.  
Director

s/Kirk T. Manhardt  
KIRK T. MANHARDT  
Assistant Director

s/Timothy P. McIlmail  
**TIMOTHY P. MCILMAIL**  
Senior Trial Counsel  
Commercial Litigation Branch  
Civil Division  
Department of Justice  
PO Box 480  
Ben Franklin Station  
Washington, D.C. 20004  
Tel: (202) 307-0315  
[timothy.mcilmail@usdoj.gov](mailto:timothy.mcilmail@usdoj.gov)

OF COUNSEL:

J. BRYAN WARNOCK  
Trial Attorney  
Commercial Litigation Branch

Attorneys for Defendant

May 2, 2014